Public Notice

US Army Corps of Engineers
Huntington District

In reply refer to:	Issuance Date:
Public Notice No. 200400478	September 03, 2004
Stream:	**Expiration Date:**
Elkhorn Creek	October 04, 2004
Address comments to:	**US Army Corps of Engineers, Huntington District** **502 Eighth Street** **ATTN: CELRH-F** **Huntington, West Virginia 25701-2070**

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Southern Minerals, Inc.
416 Tanglewood Drive
Princeton, WV 24740

LOCATION: The proposed project is located in two unnamed tributaries to Elkhorn Creek and Lick Branch, near Big Four, McDowell County, West Virginia as depicted on the attached Drawing 1. The location of the proposed valley fill and associated sediment pond is depicted on Drawing 2 titled "Sample/Survey Area Map."

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place fill material into waters of the U.S. for the purpose of surface mining activities. The work would include the construction of one valley fill, one sediment pond and one road crossing associated with the Big Four Surface Mine. The applicant received authorization from the West Virginia Division of Environmental Protection (WVDEP) on October 22, 2002 for this mine (WVDEP # S-4012-01) pursuant to the Surface Mining Control and Reclamation Act of 1977.

A review of the project indicates the proposal would involve the placement of fill material into waters of the U.S. in conjunction with one valley fill (Valley Fill No. 1), one associated sediment pond (Sediment Pond No. 1) and a permanent road crossing. The proposed project would permanently impact 1,344 linear feet of ephemeral stream (Valley Fill No. 1) and 50 linear feet of intermittent stream (road crossing), and temporarily impact 303 linear feet of intermittent stream (Sediment Pond No. 1).

Table A of this public notice details the proposed mining activities and corresponding information with respect to the proposed impact locations and stream loss (linear feet and acres). The proposed valley fill, sediment pond and road crossing would result in the discharge of fill material into approximately 1,697 linear feet or 0.197 acre of waters of the U.S. The mining project area consists of 97.42 acres. A second valley fill (Valley Fill No. 2) would be located outside of jurisdictional waters of the U.S. This valley fill would utilize an existing sediment pond (Sediment Pond No. 2); therefore no impacts to waters of the U.S. are proposed with Sediment Pond No. 2.

Drawing 2, labeled "Sample/Survey Area Map" depicts the overall mining plan including the road crossing (labeled "Road Crossing Reference Reach"), valley fill (labeled "Proposed Valley

Fill No. 1) and sediment pond (labeled "Proposed Pond No. 1"). In addition, the drawing indicates an existing sediment pond (labeled "Existing Pond No. 2") and a second valley fill (labeled "Proposed Valley Fill No. 2"). Drawing 3, labeled "Road Crossing Reference Reach," shows a plan view, longitudinal view, and cross sections of the proposed road. Drawing 4, labeled "Pond 1 Reference Reach," shows the plan view, longitudinal view, and cross sections of the proposed sediment pond. Drawing 5, labeled "Hollow 1 Reference Reach," shows a plan view and cross section of the stream proposed to be impacted by the hollow fill, as well as a longitudinal view of the proposed hollow fill.

MITIGATION PLAN: The applicant has included a detailed stream enhancement and restoration plan in addition to a General Mitigation Agreement that includes measures to minimize impacts to waters of the United States such as Best Management Practices to ensure no more than the minimum area needed for coal excavation would be disturbed by this activity.

The on-site mitigation would involve the rehabilitation of a portion of Lick Branch below the location of existing Sediment Pond No. 2, the restoration of the stream segment (unnamed tributary to Elkhorn Creek) proposed to be impacted by Sediment Pond No. 1, and the restoration of the segment of Lick Branch impacted by existing Sediment Pond No. 2. The mitigation involving Lick Branch below existing Sediment Pond No. 2 would be executed in two phases during the mining operation: 500 linear feet of Lick Branch would be rehabilitated prior to any impacts associated with the mining operation, and an additional 1,200 linear feet would be rehabilitated after construction of the permanent road crossing and installation of Sediment Pond No. 1. Restoration of the stream segments associated with the sediment ponds would occur during the reclamation phase of this operation at the conclusion of filling activities in the Spring of 2008 (Phase III). A 25-foot vegetated riparian zone would be established along the mitigation sites. Lick Branch is a tributary of Elkhorn Creek, which is a tributary to the Tug Fork River, a navigable water of the U.S.

Lick Branch was classified using the West Virginia Save Our Streams protocol as being in poor condition (score = 39.3) mostly due to past logging activities. Excessive stream bank erosion and channel instability provide the most direct evidence of this stream's existing poor condition. The existing stream has no defined immediate flood plain and no interior flood plain vegetation, allowing for continued scouring of the banks and downstream sediment deposition. The applicant proposes to:

- re-establish a defined flood plain with appropriate rooted vegetation for stability,
- use existing bedding material (boulder, cobble, sand) to establish flood plain slopes and normal flow channels to produce natural meander patterns along with variable flow velocities, riffles, and pools,
- place boulders in cross vanes and j-hooks within the normal flow channel to control velocities and pooling and to provide diverse aquatic habitat,
- plant grasses, brushes, and small seedlings in the immediate flood zone, and
- place an area of 25 feet on either side of the restored channel into a permanent conservation easement.

The stream segments impacted by the two sediment ponds would be restored to establish a continuous flow path and grade for an intermittent stream channel. Natural bedding materials on site would be used to line the restored stream channel with a predominantly cobble substrate. Riparian vegetation would be established on 25 feet on either side of the restored channel and these areas would be placed in a perpetual conservation easement.

Drawing 6, labeled "Phase I Mitigation Plan," shows a plan view, existing cross sections, proposed cross sections, and a proposed longitudinal view of the approximately 500 linear feet of Lick Branch in the first phase of the mitigation plan. Drawing 7, labeled "Phase II Mitigation Plan," shows the same views of the approximately 1,200 linear feet of Lick Branch proposed to be restored during the second phase of the mitigation plan. Drawing 8, labeled "Phase III Mitigation Plan Pond 1," shows a plan view of the proposed sediment pond, and a plan view of the proposed restoration of the channel and typical cross section for the approximately 303 linear feet of the unnamed tributary to Elkhorn Creek proposed to be impacted by Sediment Pond 1. Finally, Drawing 9, labeled "Phase III Mitigation Plan Pond 2," shows a plan view of the existing sediment pond (No. 2) along with a plan view and typical cross section of the approximately 213 linear feet of channel (Lick Branch) proposed to be restored at the end of the proposed mining operation.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. This office previously coordinated with the WV Division of Culture and History concerning the proposed project. The WV Division of Culture and History indicated no "...historical, architectural, or archaeological sites listed in or eligible for inclusion in the National Register of Historic Places will be affected by this project." A copy of this public notice will be sent to the State Historic Preservation Office for their review.

ENDANGERED/THREATENED SPECIES REVIEW: This project is located within the known or historic range of the following federally-listed species:

Bald Eagle, Indiana Bat, Virginia Big-Eared Bat, and Eastern Cougar

The applicant has provided the results of a mist net survey for Indiana bats conducted June 12 and June 16, 2004. No Indiana bats or Virginia big-eared bats were captured during this survey. The results of this survey will be forwarded to the U.S. Fish and Wildlife Service for their review.

This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may

be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

If you have any questions concerning this public notice, please call Jim Spence of the South Regulatory Section at 304-399-5710.

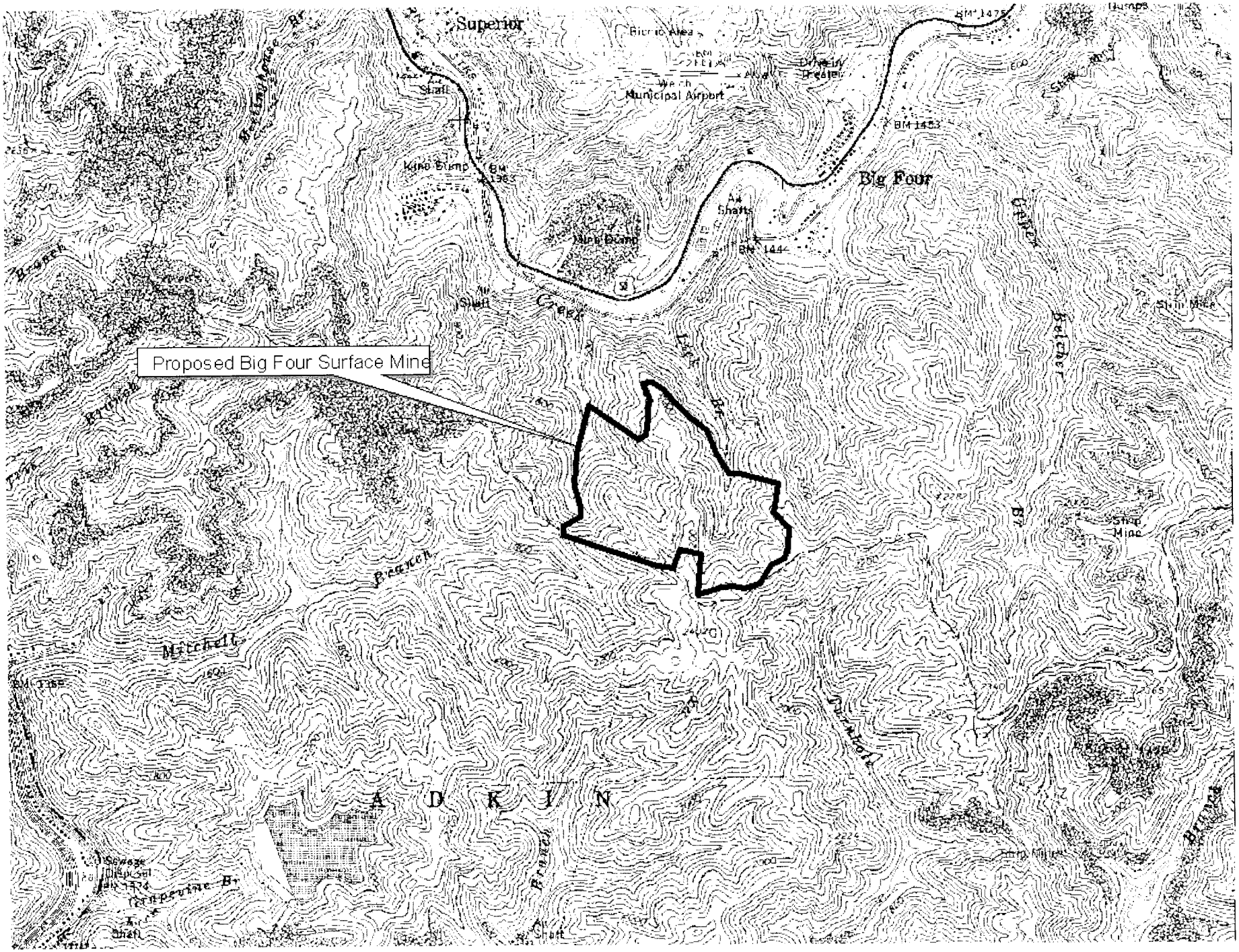
Ginger Mullins, Chief
Regulatory Branch

(W)

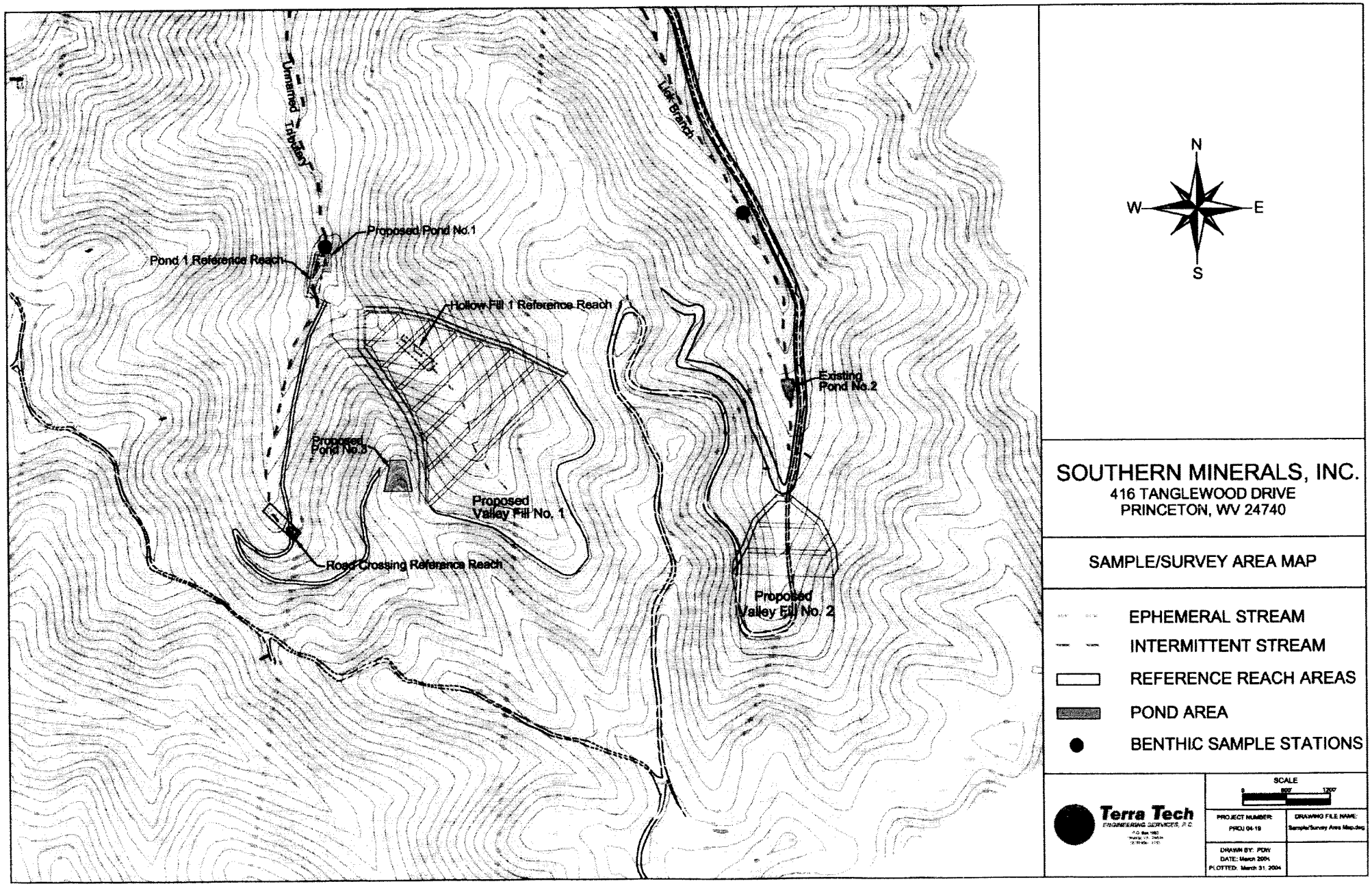
Table A

Independence Coal Company, Inc.
200400478-UN Trib to Elkhorn Creek
WVDEP Application No. S-4012-01

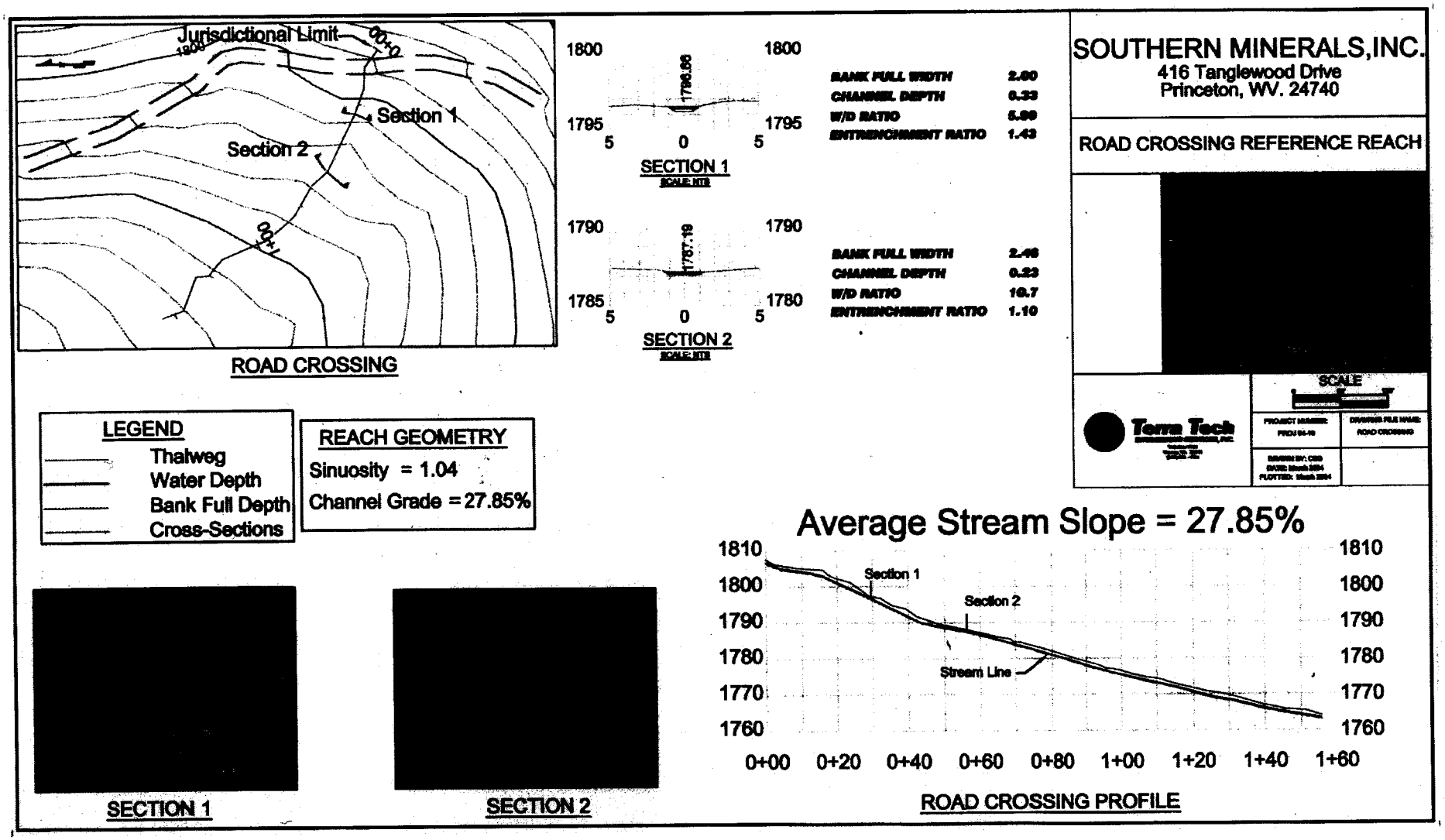
Mining Activities	***Location***	**Extent of PERMANENT Impacts (Linear Feet)**			**Extent of TEMPORARY Impacts (Linear Feet)**			**Cumulative Acres of Impact**	**Drainage Area (Acres)**
		Perennial	Intermittent	Ephemeral	Perennial	Intermittent	Ephemeral		
Sediment Pond No. 1	U/T Elkhorn Creek	•	•	•	•	303	•	0.052	*118.5*
Valley Fill No. 1	U/T Elkhorn Creek	•	•	1344	•	•	•	0.142	*47.3*
Road Crossing	U/T Hazy Creek (U/T to Irene Hollow)	•	50	•	•	•	•	0.003	*15.8*
Total (Permanent and Temporary Impacts)		•	50	1344	•	303	•	**0.197**	
			1394			**303**			
		1697							


Superior
Municipal Airport
Big Four
Proposed Big Four Surface Mine
Mitchell
A D K I N

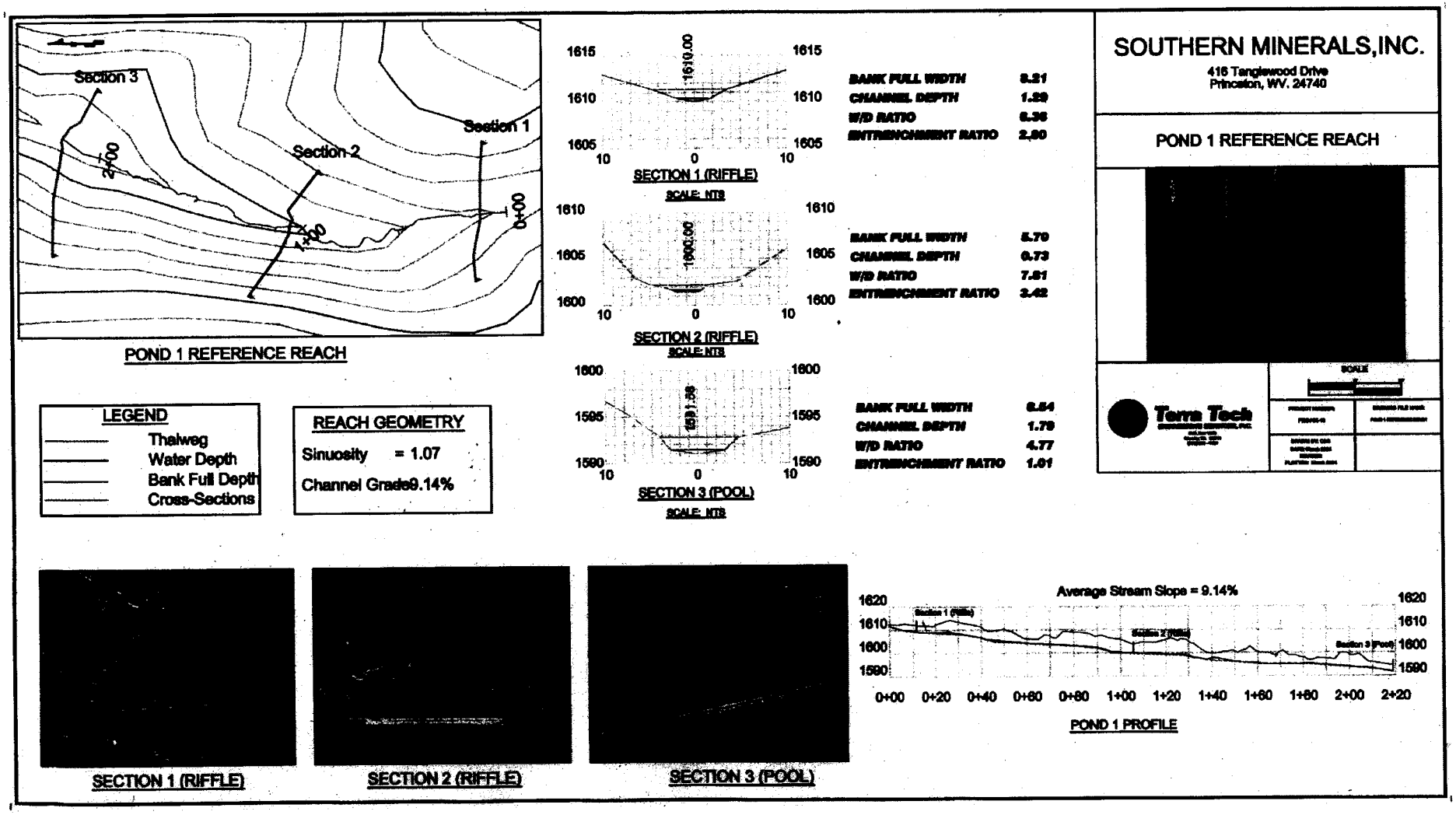
Drawing 1


Unnamed Tributary
Lick Branch
Proposed Pond No.1
Pond 1 Reference Reach
Hollow Fill 1 Reference Reach
Existing Pond No.2
Proposed Pond No.3
Proposed Valley Fill No. 1
Road Crossing Reference Reach
Proposed Valley Fill No. 2
N
W
E
S
SOUTHERN MINERALS, INC.
416 TANGLEWOOD DRIVE
PRINCETON, WV 24740
SAMPLE/SURVEY AREA MAP
EPHEMERAL STREAM
INTERMITTENT STREAM
REFERENCE REACH AREAS
POND AREA
BENTHIC SAMPLE STATIONS
SCALE
Terra Tech
ENGINEERING SERVICES, P.C.
PROJECT NUMBER:
PROJ 04-19
DRAWING FILE NAME:
Sample/Survey Area Map.dwg
DRAWN BY: PDW
DATE: March 2004
PLOTTED: March 31, 2004

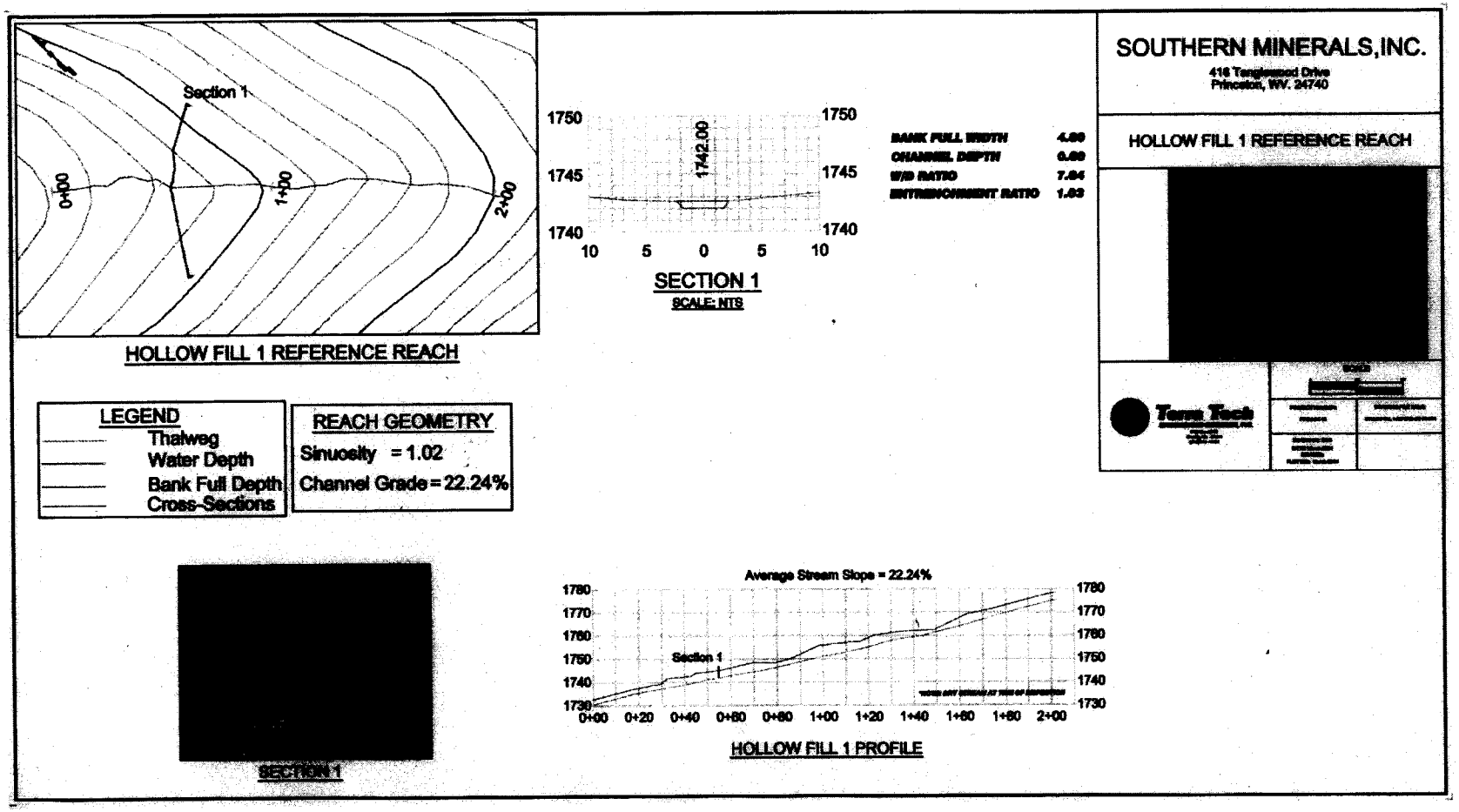
Drawing 2


Jurisdictional Limit
0+00
Section 1
Section 2
0+00
ROAD CROSSING
1800
1795
5
0
5
1796.86
SECTION 1
SCALE: NTS
BANK FULL WIDTH 2.60
CHANNEL DEPTH 0.33
W/D RATIO 5.89
ENTRENCHMENT RATIO 1.43
1790
1785
5
0
5
1787.19
SECTION 2
SCALE: NTS
BANK FULL WIDTH 2.46
CHANNEL DEPTH 0.23
W/D RATIO 10.7
ENTRENCHMENT RATIO 1.10
SOUTHERN MINERALS,INC.
416 Tanglewood Drive
Princeton, WV. 24740
ROAD CROSSING REFERENCE REACH
SCALE
Terra Tech
LEGEND
Thalweg
Water Depth
Bank Full Depth
Cross-Sections
REACH GEOMETRY
Sinuosity = 1.04
Channel Grade = 27.85%
Average Stream Slope = 27.85%
1810
1800
1790
1780
1770
1760
Section 1
Section 2
Stream Line
0+00
0+20
0+40
0+60
0+80
1+00
1+20
1+40
1+60
SECTION 1
SECTION 2
ROAD CROSSING PROFILE

Drawing 3


Section 3
Section 2
Section 1
2+00
1+00
0+00
POND 1 REFERENCE REACH
1615
1610
1605
1610.00
SECTION 1 (RIFFLE)
SCALE: NTS
BANK FULL WIDTH 8.21
CHANNEL DEPTH 1.29
W/D RATIO 6.36
ENTRENCHMENT RATIO 2.80
1610
1605
1600
1600.00
SECTION 2 (RIFFLE)
SCALE: NTS
BANK FULL WIDTH 5.70
CHANNEL DEPTH 0.73
W/D RATIO 7.81
ENTRENCHMENT RATIO 3.42
1600
1595
1590
1591.58
SECTION 3 (POOL)
SCALE: NTS
BANK FULL WIDTH 8.54
CHANNEL DEPTH 1.79
W/D RATIO 4.77
ENTRENCHMENT RATIO 1.01
SOUTHERN MINERALS,INC.
416 Tanglewood Drive
Princeton, WV. 24740
POND 1 REFERENCE REACH
Terra Tech
LEGEND
Thalweg
Water Depth
Bank Full Depth
Cross-Sections
REACH GEOMETRY
Sinuosity = 1.07
Channel Grade9.14%
SECTION 1 (RIFFLE)
SECTION 2 (RIFFLE)
SECTION 3 (POOL)
Average Stream Slope = 9.14%
1620
1610
1600
1590
0+00 0+20 0+40 0+60 0+80 1+00 1+20 1+40 1+60 1+80 2+00 2+20
POND 1 PROFILE

Drawing 4


Section 1
0+00
1+00
2+00
HOLLOW FILL 1 REFERENCE REACH
1750
1745
1740
1742.00
10 5 0 5 10
SECTION 1
SCALE: NTS
BANK FULL WIDTH 4.60
CHANNEL DEPTH 0.60
W/D RATIO 7.64
ENTRENCHMENT RATIO 1.02
SOUTHERN MINERALS,INC.
416 Tanglewood Drive
Princeton, WV. 24740
HOLLOW FILL 1 REFERENCE REACH
Terra Tech
LEGEND
Thalweg
Water Depth
Bank Full Depth
Cross-Sections
REACH GEOMETRY
Sinuosity = 1.02
Channel Grade = 22.24%
SECTION 1
Average Stream Slope = 22.24%
1780
1770
1760
1750
1740
1730
Section 1
0+00 0+20 0+40 0+60 0+80 1+00 1+20 1+40 1+60 1+80 2+00
HOLLOW FILL 1 PROFILE

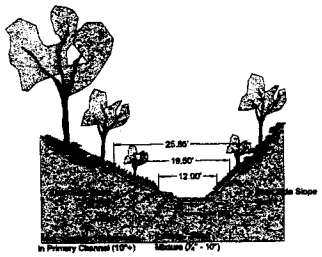
Drawing 5

Drawing 6

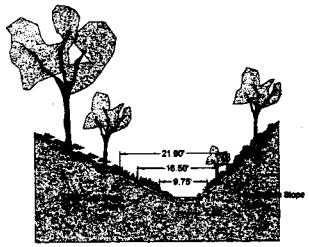
Phase I Mitigation Plan
Natural Stream Channel Rehabilitation
(500' of Intermittent Stream Channel)

SITE PLAN
Scale: 1" = 100'

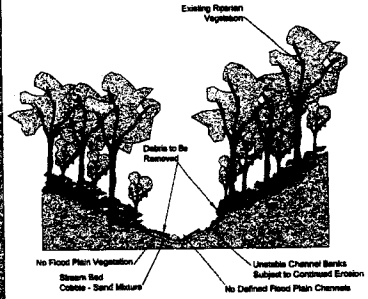
Mitigation Channel Location



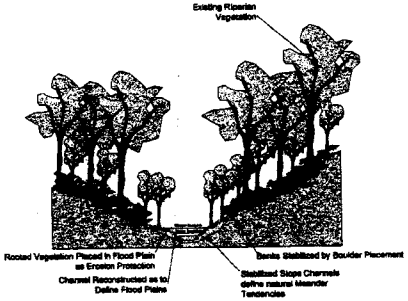
Mitigation Channel Detail
0-5% Slope Illustration
Scale: NTS



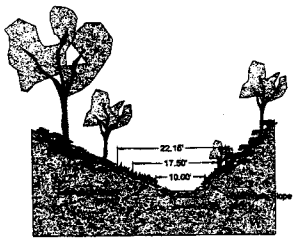
Mitigation Channel Detail
6-10% Slope Illustration
Scale: NTS



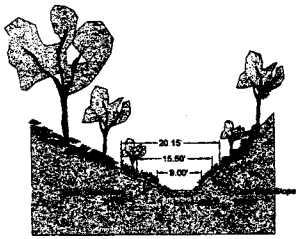
Existing Intermittent Channel Configuration



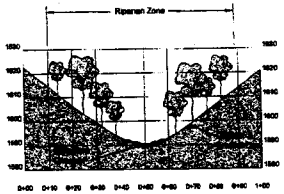
Proposed Intermittent Channel Configuration



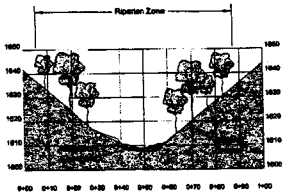
Mitigation Channel Detail
11-15% Slope Illustration
Scale: NTS



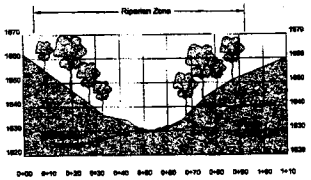
Mitigation Channel Detail
16+% Slope Illustration
Scale: NTS



CROSS-SECTION A-A
Scale: 1" = 20'



CROSS-SECTION B-B
Scale: 1" = 20'



CROSS-SECTION C-C
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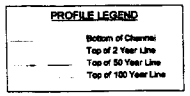
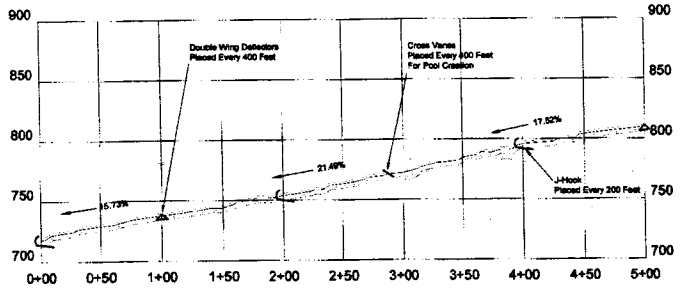
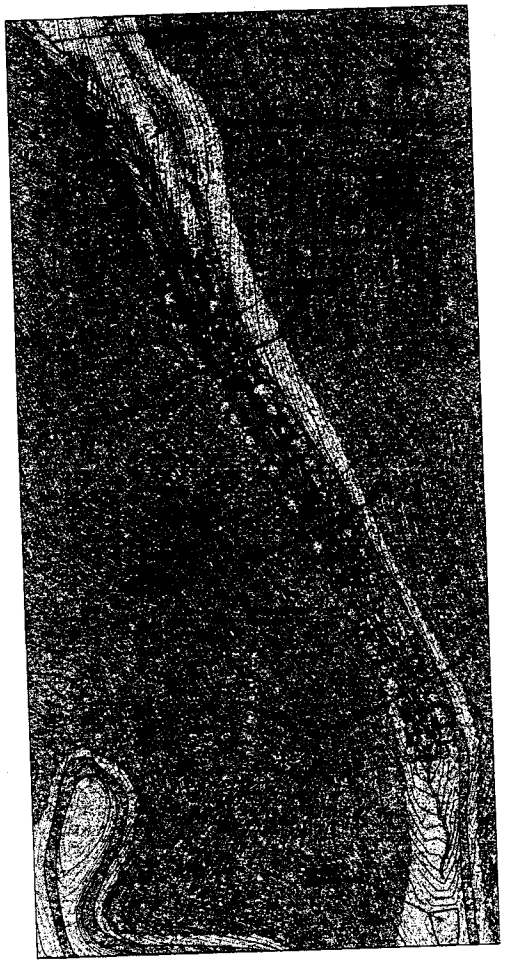




PROFILE
Scale: 1" = 40'

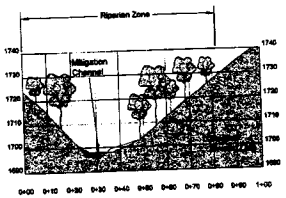
Terra Tech
ENGINEERING SERVICES, P.C.
P.O. Box 1083
Granby, VA 24614
(276) 635-4191

Phase II Mitigation Plan
Natural Stream Channel Rehabilitation
(1,200' of Intermittent Stream Channel)

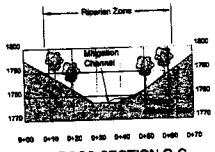


SITE PLAN
Scale: 1" = 100'

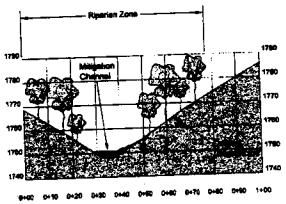
Mitigation Channel Location



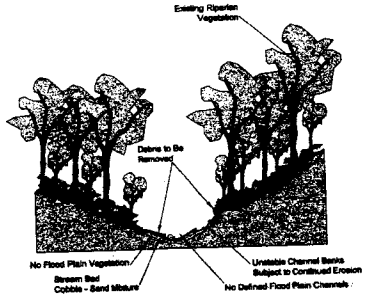
CROSS-SECTION A-A
Scale: 1" = 20'



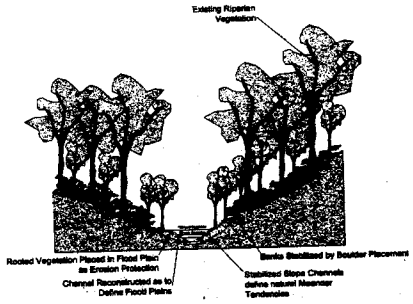
CROSS-SECTION C-C
Scale: 1" = 20'



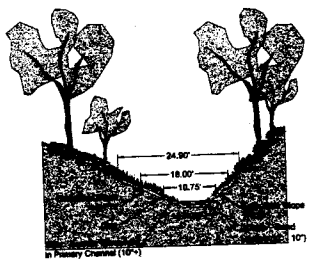
CROSS-SECTION B-B
Scale: 1" = 20'



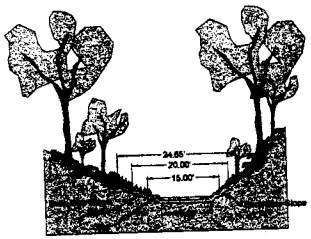
Existing Intermittent Channel Configuration



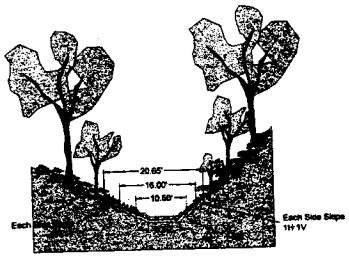
Proposed Intermittent Channel Configuration



Mitigation Channel Detail
0-5% Slope Illustration
Scale: NTS

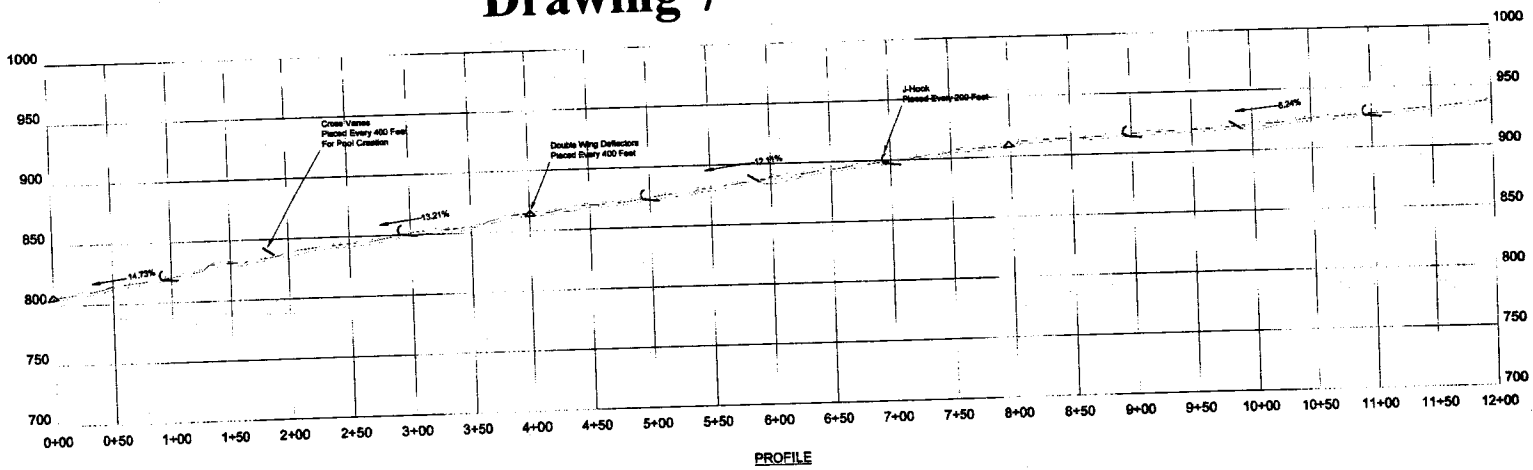


Mitigation Channel Detail
6-10% Slope Illustration
Scale: NTS



Mitigation Channel Detail
11-15% Slope Illustration
Scale: NTS

Drawing 7



PROFILE
Scale: 1" = 40'

PROFILE LEGEND
- Bottom of Channel
- Top of 2 Year Line
- Top of 50 Year Line
- Top of 100 Year Line

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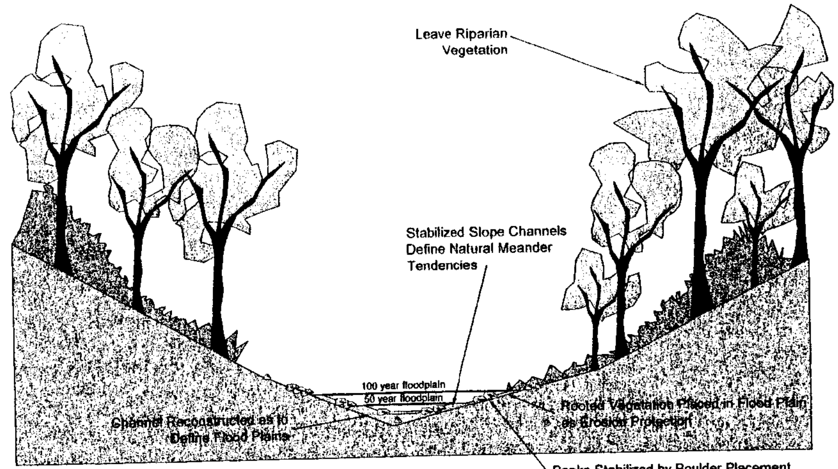
Phase III Mitigation Plan Pond 1

INTERMITTENT CHANNEL RECONSTRUCTION

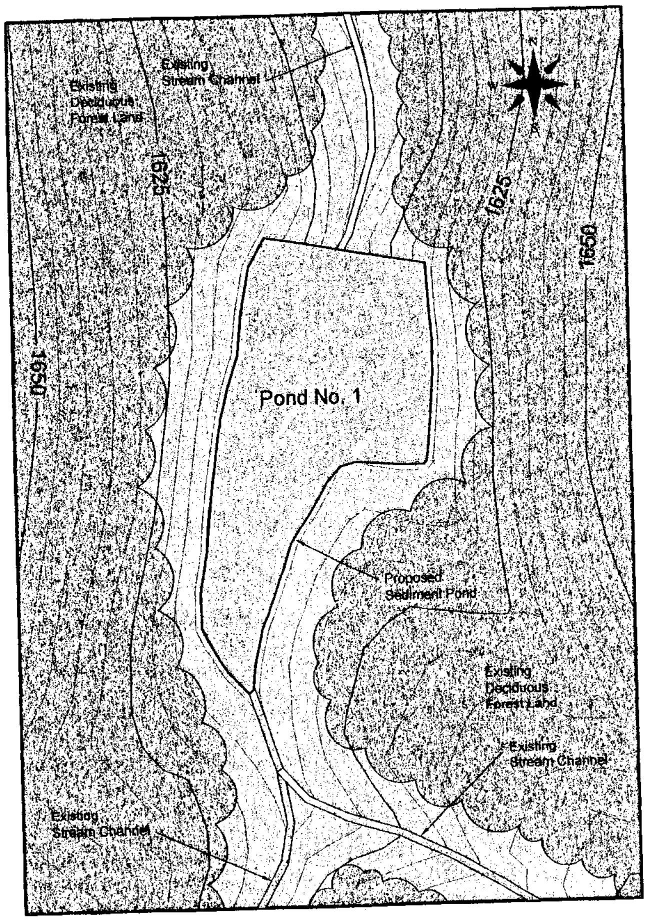
(303 ' of Intermittent Stream Channel)



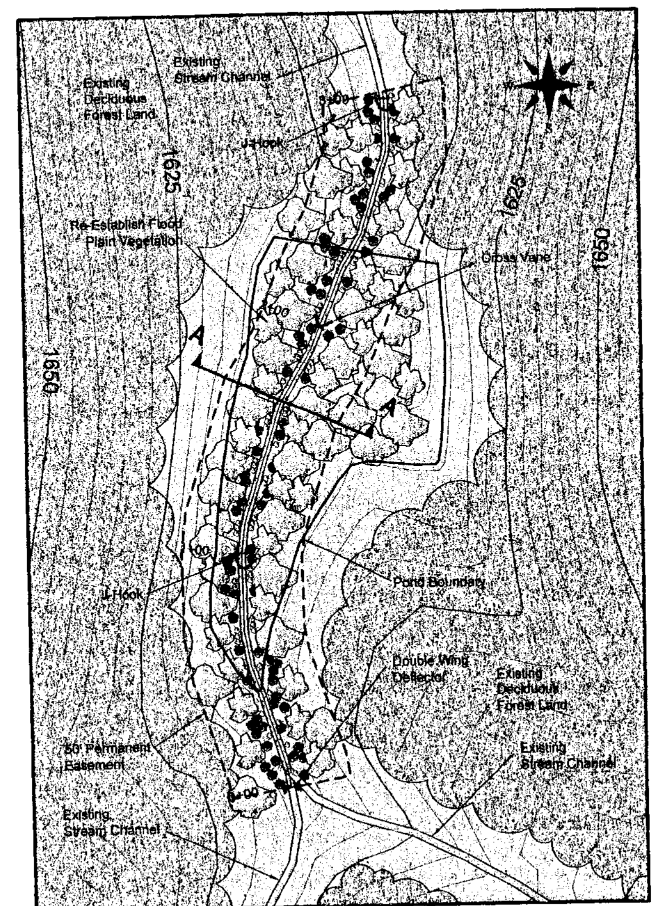
Leave Riparian Vegetation
Stabilized Slope Channels Define Natural Meander Tendencies
100 year floodplain
50 year floodplain
Channel Reconstructed as to Define Flood Plains
Rooted Vegetation Placed in Flood Plain as Erosion Protection
Banks Stabilized by Boulder Placement and Compacted Sand-Gravel Mixtures

Section A-A

SCALE: NTS



Proposed Sediment Pond And Existing Intermittent Stream Channel



Existing Stream Channel
Existing Deciduous Forest Land
J-Hook
1625
1650
Re-Establish Flood Plain Vegetation
Cross Vane
A
Pond Boundary
J-Hook
Double Wing Deflector
Existing Deciduous Forest Land
50' Permanent Easement
Existing Stream Channel
Existing Stream Channel

Pond No. 1 Reconstructed Intermittent Stream Channel

Drawing 8

0' 40' 80' 120'

SCALE: 1"= 40'

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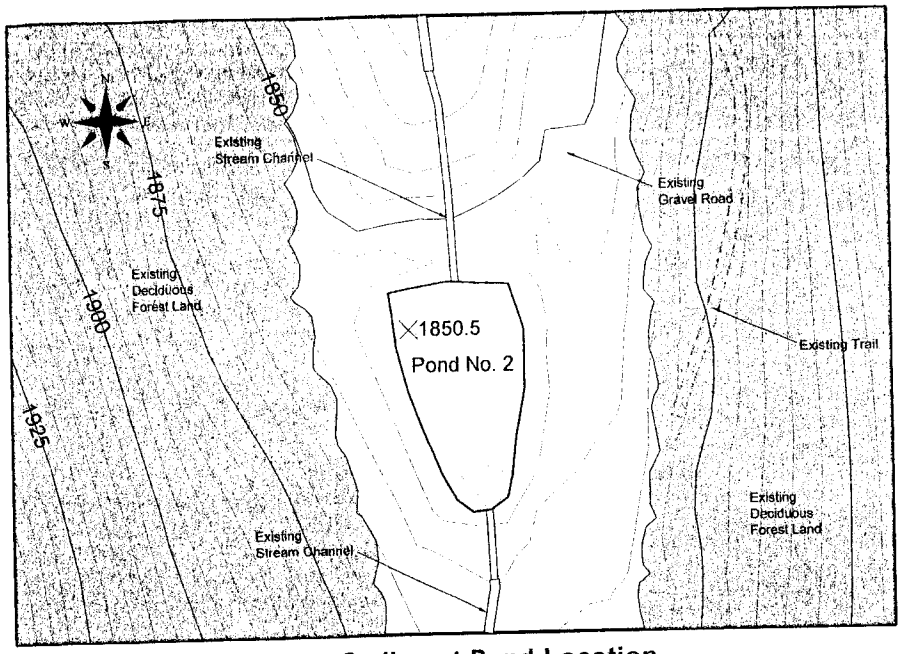
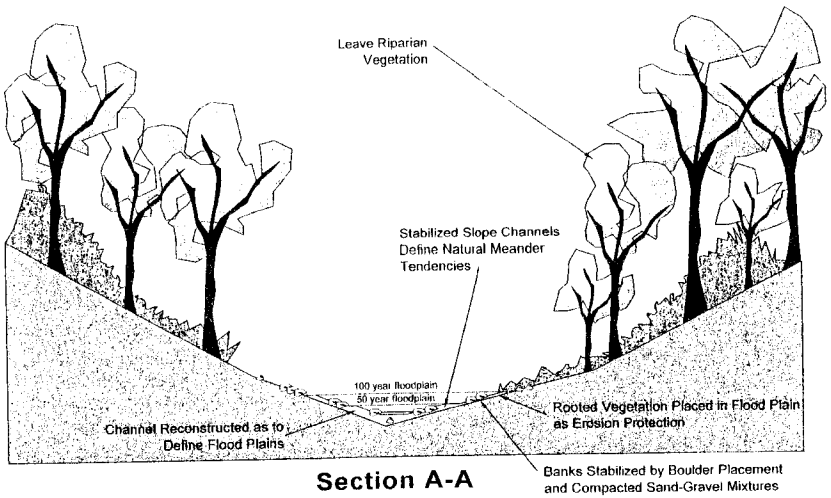
STATE OF WEST VIRGINIA PROFESSIONAL ENGINEER

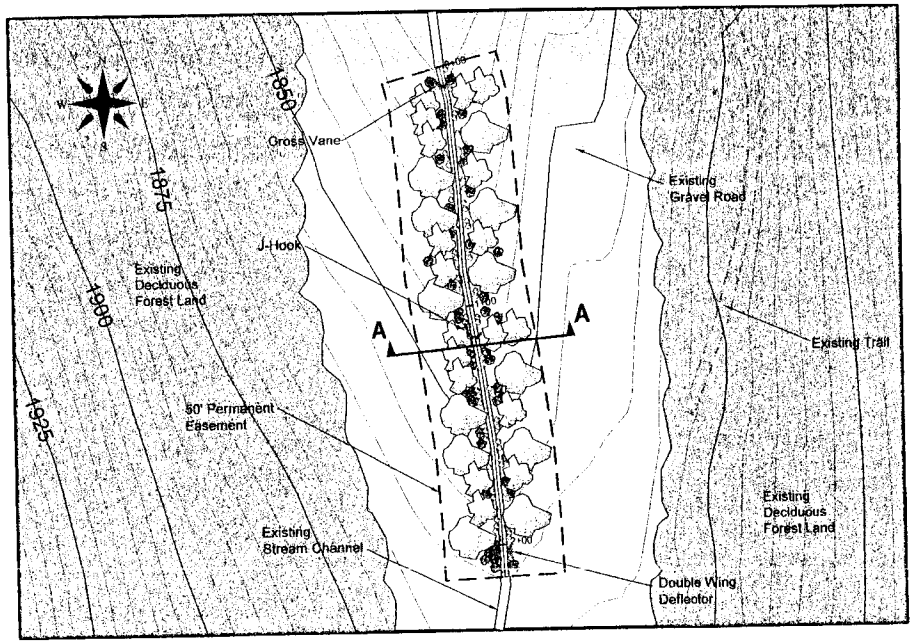


Existing Sediment Pond Location
In Intermittent Stream Channel



Section A-A

Reconstructed Intermittent Stream Channel
Through Pond Location

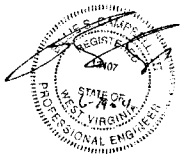


Drawing 9

Phase III Mitigation Plan Pond 2

INTERMITTENT CHANNEL RECONSTRUCTION

(213' of Intermittent Stream Channel)



SCALE: 1"= 40'